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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,378	11/12/2003	David John Smith	CM-2477M2D	6378

27752 7590 08/14/2006

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EXAMINER

WEBB, GREGORY E

ART UNIT PAPER NUMBER

1751

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,378

Applicant(s)

SMITH ET AL.

Examiner

Gregory E. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 0905; 0505; 0904; 0704a; 0704b; 0604
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/20/06 have been fully considered but they are not persuasive.
2. The applicant argues that the prior art references teach away from the applicant's claimed deformability.
3. The examiner does not agree with this argument. Although the prior art may prefer their pouch to be non-deformable, these prior art references are not limited to preferred embodiments but instead must be read as a whole.
4. For example, in the '49164 reference, it is clearly taught that the pouch is made from a "stretchable material." (see paragraph 0039). It is not clear to the examiner how the term "stretchable material" could refer to anything else but a deformable body. How could something stretch without deforming? The examiner maintains from these teaching that the prior art does in fact teach a deformable body or would at the very least be inherent to the flexible bodies of the '49164 reference. Thus this rejection is maintained.
5. Concerning the '77264 reference, the examiner again contends that this reference directly teaches or would inherently teach a deformable body. In paragraph 0027 it is clearly stated that "preferably, the pouch, in particular the first pouch, is made of a material which is stretchable, as set out herein." Again the term "stretchable" would either directly anticipate ~~the~~ or inherently anticipate the applicant's term "deformability."
6. Concerning the '312 reference, the applicant states that this reference is silent to the term "deformability." Here the examiner disagrees. Although the '312 does not use the exact

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terminology as the applicant, the '312 reference clearly addresses this feature. For example, in column 3, lines 40-65 the '312 reference clearly states that the water-soluble resin should be strong and pliable. The term "pliable" is clearly synonymous with "deformability."

7. Almost all dishwashers are going to have different geometries of dispensers. It is unclear to the examiner why anyone would create a non-deformable rigid pouch. Such a rigid pouch would clearly be limited to machines with an identical geometry. The examiner is unaware of any dishwashing pouch that possesses rigid dimensions so that it would only fit into a machine with a dispenser with identical geometry.

8. The examiner does not expect to ever find the applicant's specific "deformability" measurements as such values are never reported. Thus such properties unless shown otherwise by very specific evidence would be inherent to those recited prior art references.

9. As such previous rejections are maintained.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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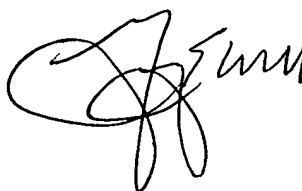
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 571-272-1325.

The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglass McGinty can be reached on (571)272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory E. Webb
Primary Examiner
Art Unit 1751

gew